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BEFORE THE FEDERAL ELECTION COMMISSION

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COMMISSION

2015 MAR 31 PM 5: 53

In the Matter of)

MUR 6751)

Corry Westbrook for Congress)

and Catherine E. Wenzling as Treasurer)

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY
SYSTEM

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GENERAL COUNSEL'S REPORT

12 Under the Enforcement Priority System, the Commission uses formal scoring criteria as a
13 basis to allocate its resources and decide which matters to pursue. These criteria include, without
14 limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking
15 into account both the type of activity and the amount in violation; (2) the apparent impact the
16 alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised
17 in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of
18 1971, as amended (the "Act"),¹ and developments of the law. It is the Commission's policy that
19 pursuing relatively low-rated matters on the Enforcement docket warrants the exercise of its
20 prosecutorial discretion to dismiss cases under certain circumstances and where appropriate, to find
21 no reason to believe that a violation occurred. The Office of General Counsel has determined that
22 MUR 6751 should not be referred to the Alternative Dispute Resolution Office.²

23 For the reasons set forth below, the Office of General Counsel recommends that the
24 Commission find no reason to believe that Corry Westbrook for Congress and Catherine E.
25 Wenzling in her official capacity as treasurer (the "Committee")³ violated the Act and Commission

¹ On September 1, 2014, the Federal Election Campaign Act of 1971, as amended (the "Act"), was transferred from Title 2 of the United States Code to new Title 52 of the United States Code.

² The EPS rating information is as follows: Complaint Filed: August 23, 2013. Supplement to Complaint Filed: September 22, 2013. Response from Corry Westbrook for Congress Filed: September 20, 2013. Supplemental Response Filed: November 19, 2014.

³ Corry Westbrook for Congress is the principal campaign committee of Corry Westbrook, an unsuccessful 2014 candidate for Florida's 8th Congressional District.

1 regulations.⁴

2 The Complainant, Patricia Lavins, alleges that Corry Westbrook filed a false Statement of
3 Organization (FEC Form 1), by including a Florida address that was not her legal residence.
4 Compl. at 1-2. Specifically, the Complaint claims that Westbrook is not a resident of Florida, but
5 rather resides in Washington, D.C., and that Westbrook used the Florida address of a "leased office
6 space" at 1127 21st Street, Vero Beach, Florida on the Committee's Statement of Organization. *Id.*
7 at 2. The Complaint further alleges that the Committee's treasurer, Catherine E. Wenzling, signed
8 the Statement of Organization with knowledge of Westbrook's "false[] claim[] to be a Florida
9 resident." *Id.* According to the Complaint, another "fraudulent address" Westbrook uses is her
10 parents' residence at 1955 3rd Street, Vero Beach, Florida. *Id.* The Complaint additionally alleges
11 that the Committee failed to accurately report a fundraising event that was identified on disclosure
12 reports as having occurred at Westbrook's Washington, D.C. residence. *Id.*

13 The Complaint also alleges that Westbrook used campaign donations to purchase airline
14 tickets to travel between Washington, D.C. and Florida "for regular meetings with her parents who
15 are her campaign managers." *Id.* at 4. According to the Complaint, Westbrook spent "[s]everal
16 thousand dollars . . . in this manner," and these disbursements have not been disclosed on the
17 Committee's disclosure reports. Compl. at 4.

18 A Supplement to the Complaint further alleges that Westbrook failed to timely file a
19 Statement of Organization (Form 1) or Statement of Candidacy (Form 2), because Westbrook was

⁴ The Complaint also includes claims regarding Westbrook's residency, allegedly unlawful Florida voter registration, presentation of purportedly false information to a government agency, and claims that Westbrook is ineligible to be elected to the United States House of Representatives. The Commission lacks jurisdiction to consider these allegations. See 52 U.S.C. § 30109 (formerly 2 U.S.C. § 437g); 11 C.F.R. § 111.1; see also MUR 6561 (Friends of Liberty for Jessica) Factual & Legal Analysis at 4 n. 5, (explaining that the Complainant's allegations under another statute related to claims of "materially false, fictitious, or fraudulent representation . . . writing or document" were outside the Commission's jurisdiction).

1 allegedly raising funds and purportedly leasing office space prior to filing with the Federal Election
2 Commission.⁵ Supp. Compl. at 1.

3 In its Response, the Committee notes that both the Committee and Westbrook have
4 addresses in Florida. Resp. at 1-2. Attached to its Response, the Committee submitted a copy of its
5 Statement of Organization, and on that form, the Committee reported its address as 1127 21st
6 Street, Vero Beach, Florida.⁶ Resp., Ex. 3 at 1. In its 2013 July Quarterly Report, the Committee
7 reported disbursements that included rent and electric for "1127 21st St." Resp., Ex. 5 at 6, 7, 10.⁷
8 The Committee also reported on its Statement of Organization an additional mailing address for
9 Westbrook to be 1955 3rd Street, Vero Beach, Florida. Resp., Ex. 3. at 3, 4. The Response states
10 that Westbrook is a "resident and domiciliary of Florida and a resident of the District of Columbia"
11 and used her Florida address for the purposes of filing FEC disclosure reports. Resp. at 3.⁸ In the
12 affidavit, Westbrook explains that her parents own the house located at 1955 3rd Street in Vero
13 Beach where she rents a room when she is in Florida. Resp. Ex. 6 at 1.

14 The Committee's Response, and Westbrook's affidavit, explains that Westbrook pays for the
15 travel between her residence in Washington, D.C. and the 8th Congressional District of Florida
16 from her personal funds. Resp. at 4; Resp., Ex. 6 at 3. The Committee's disclosure reports filed

⁵ The Complainant offers that in reaching out to "Lambert Commercial leasing" the Commission can learn "how [Westbrook] obtained the funds for the office when she was not yet an official candidate."

⁶ The Committee's initial Statement of Organization and Statement of Candidacy filed with the FEC were received April 1, 2013, and listed the address of 1127 21st St, Vero Beach, Florida, 32960. In the Committee's first financial report to the Commission, it reported an April 10, 2013, disbursement to "Maxwell Rental Properties" in the amount of \$2,100, noting the Purpose of Disbursement as "rent 1127 21st St." Additional expenditures to "Maxwell Rental Properties" were also reported as being disbursed on May 1, 2013, and June 1, 2013, in the amount of \$750 each. See Corry Westbrook for Congress, 2013 July Quarterly Report at 91-92 (filed July 11, 2013), available at <http://docquery.fec.gov/pdf/367/13941016367/13941016367.pdf>.

⁷ The 2013 July Quarterly was the Committee's most recent disclosure report filed with the Commission at the time the Complaint was filed on August 23, 2013. See Corry Westbrook for Congress, 2013 July Quarterly Report at 54-74 (filed July 11, 2013), available at <http://docquery.fec.gov/pdf/367/13941016367/13941016367.pdf>.

⁸ The Committee's Response also included an affidavit from Westbrook asserting that she is a "dual resident of both Vero Beach, Florida and Washington, D.C." Resp., Ex. 6 at 1.

1 with the Commission do not include any disbursements for air travel from Washington, D.C. to
2 Florida. *See* Resp., Ex. 5 at 86-96. *See also* Corry Westbrook for Congress, 2013 October
3 Quarterly Report (filed October 13, 2013), *available at*
4 <http://docquery.fec.gov/pdf/837/13941768837/13941768837.pdf>. Further, the Response states that
5 Westbrook's travel between Washington, D.C. and the 8th Congressional District is frequently for
6 campaign purposes. Resp. at 4.

7 Under the Act, a principal campaign committee must file a Statement of Organization with
8 the Commission (FEC Form 1) that includes among other things: "the name, address, and type of
9 committee"; "the name, address, and position of the custodian of books and accounts of the
10 committee"; and "if the committee is authorized by a candidate, the name, address, office sought,
11 and party affiliation of the candidate" 52 U.S.C. § 30103(b)(1), (3), (5) (formerly 2 U.S.C.
12 § 433(b)(1), (3), (5)); 11 C.F.R. § 102.2(a)(1)(i), (iii), (v). The Complaint is not specific as to why
13 the addresses provided are fraudulent. On its Statement of Organization, the Committee reported its
14 address to be 1127 21st Street, Vero Beach, Florida, and the address of Westbrook in her capacity
15 as custodian of records and designated agent to be 1955 3rd Street, Vero Beach, Florida. Resp., Ex.
16 3 at 1, 3, 4. In its Response, the Committee provided disclosure reports reflecting that the
17 Committee pays rent for the 1127 21st Street property and Westbrook asserts in her affidavit that
18 she pays rent for a room at the 1955 3rd Street property, which would indicate these are each valid
19 mailing addresses for both parties. Resp., Ex. 5 at 6, 7, 10; Resp., Ex. 6 at 1. The Complaint
20 concedes that Westbrook's parents reside at the 1955 3rd Street address, and the Committee's
21 disclosure reports disclose the use of campaign funds for renting the office space at the 1127 21st
22 Street address. Compl. at 3. Therefore, given the lack of evidence in the record to show that these
23 addresses are invalid for either the Committee or Westbrook, the Office of General Counsel

1 recommends that the Commission find no reason to believe that the Committee violated 52 U.S.C.
2 § 30103(b)(1), (3), (5) (formerly 2 U.S.C. § 433(b)(1), (3), (5)) with respect to reporting
3 Westbrook's and the Committee's addresses on its FEC Form 1.⁹

4 The Act requires each treasurer of a political committee to file reports of receipts and
5 disbursements with the Commission. 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)); *see also*
6 11 C.F.R. § 104.1. The Act further requires disclosure reports to include the total amount of all
7 disbursements in itemized categories. 52 U.S.C. § 30104(b)(4) (formerly 2 U.S.C. § 434(b)(4)); *see*
8 *also* 11 C.F.R. § 104.3(b). However, the Commission's regulations do not require a candidate for
9 Congress to report the use of personal funds to pay for travel between Washington, D.C. and the
10 state in which he or she is a candidate. 11 C.F.R. § 106.3(d).¹⁰ Here, as the Complaint alleges, no
11 funds were reported on disclosure reports to indicate that the Committee paid for travel between
12 Washington, D.C. and Florida; the Committee's Response and Westbrook's affidavit both assert that
13 Westbrook paid for this travel using the candidate's personal funds. Resp. at 4; Resp., Ex. 6 at 3;
14 *see also* Resp. Ex. 5. Thus, because Westbrook appears to have used personal funds to pay for the
15 travel between Washington, D.C. and the state in which she is a candidate, the Office of General
16 Counsel recommends that the Commission find no reason to believe that the Committee violated 52
17 U.S.C. § 30104(b)(4) (formerly 2 U.S.C. § 434(b)(4)) with respect to the use of unreported
18 campaign funds for air travel between Washington, D.C. and Florida.

⁹ FEC Form 1, and line-by-line instructions the Commission has released for completing the form, explain that the Act's reference to "address" is in the context of a mailing address. *FEC Form 1*, FEDERAL ELECTION COMMISSION (2009) 1-4 <http://www.fec.gov/pdf/forms/fecfrm1.pdf>; *see also Instructions for Statement of Organization (FEC Form 1)*, FEDERAL ELECTION COMMISSION (2009) <http://www.fec.gov/pdf/forms/fecfrm1i.pdf#search=instructions%20for%20statement%20of%20organization>.

¹⁰ The Act also prohibits candidates for the United States House of Representatives from making expenditures for noncommercial or nongovernmental air travel from campaign funds. 52 U.S.C. § 30114(c)(2) (formerly 2 U.S.C. § 439a(c)(2)); *see* 11 C.F.R. § 113.5(b). However, neither the Complaint nor the Response raises this as an issue in this matter.

1 Additionally, there is no indication that the Committee violated the Act's reporting
2 requirements with respect to the alleged fundraising event at Westbrook's address in Washington,
3 D.C. *See* Compl. at 3. The Complainant concedes that the Committee disclosed this disbursement
4 in disclosure reports, but appears to be mistaken as to where the event occurred. *See id.* In her
5 affidavit, Westbrook explains that the event was not held at her residence as alleged in the
6 Complaint, but instead was held at a neighbor's house. Resp., Ex. 6 at 3. The Response also states
7 that Westbrook's Washington, D.C. address is _____, and that the event in
8 question occurred at a neighbor's home. Resp. at 2. As support for its assertion, the Response
9 attaches a flyer for the event that advertises it to be held at "Fred and Eric's house" and identifies the
10 event address to be 2011 Klinge Road, NW, Washington D.C. Resp., Ex. 4. The Committee's
11 disclosure reports identify a disbursement to Eric Czander of 2011 Klinge Road for an "event at
12 Klinge Rd.," thus, the Committee appears to have appropriately disclosed this disbursement under
13 the Act. Resp., Ex. 4; Resp., Ex. 5 at 2; *see* 52 U.S.C. § 30104(b)(4) (formerly 2 U.S.C.
14 § 434(b)(4)). Therefore, the Office of General Counsel recommends that the Commission find no
15 reason to believe that the Committee violated the Act with respect to reporting this fundraising
16 event.

17 Commission regulations do not prohibit a candidate from receiving funds that will be used
18 once a committee is formed, as long as those funds are properly and timely reported on the
19 committee's first disclosure report once it has attained political committee status. *See* 11 C.F.R.
20 § 104.3(a) ("[t]he first report filed by a political committee shall also include all amounts received
21 prior to becoming a political committee . . ."). Under the Act and Commission regulations, an
22 individual's principal campaign committee becomes a political committee when that individual
23 becomes a candidate upon receiving contributions or making expenditures in excess of \$5,000. *See*

1 52 U.S.C. § 30101(5) (formerly 2 U.S.C. § 431(5)); 11 C.F.R. § 100.5(d); *see also* 52 U.S.C.
2 § 30101(2) (formerly 2 U.S.C. § 431(2)); 11 C.F.R. § 100.3(a). The Act provides that political
3 committees are required to report cash on hand at the beginning of each reporting period, and
4 Commission regulations clarify that a political committee's first report must disclose funds received
5 prior to becoming a political committee. 52 U.S.C. § 30104(b)(1) (formerly 2 U.S.C. § 434(b)(1));
6 *see* 11 C.F.R. § 104.3(a). Here, the Complainant claims that Westbrook "obtained . . . funds" and
7 leased an office space prior to becoming a candidate, but provides no further information regarding
8 these allegations. *See* Compl. Supp. at 1. Therefore, the Office of General Counsel recommends
9 that the Commission find no reason to believe that Corry Westbrook for Congress and Catherine E.
10 Wenzling in her official capacity as treasurer violated the Act or Commission regulations as to this
11 allegation.

RECOMMENDATIONS


1. Find no reason to believe that Corry Westbrook for Congress and Catherine E. Wenzling in her official capacity as treasurer violated 52 U.S.C. § 30103(b)(1), (3), (5) (formerly 2 U.S.C. § 433(b)(1), (3), (5));
2. Find no reason to believe that Corry Westbrook for Congress and Catherine E. Wenzling in her official capacity as treasurer violated 52 U.S.C. § 30104(b)(1), (4) (formerly 2 U.S.C. § 434(b)(1), (4));
3. Approve the attached Factual and Legal Analysis and the appropriate letters; and
4. Close the file.

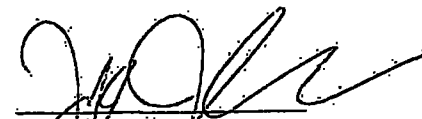
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